

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PETRÓLEOS DE VENEZUELA, S.A., PDVSA
PETRÓLEO, S.A., and PDV HOLDING, INC.,

Plaintiffs,

- against -

MUFG UNION BANK, N.A. and GLAS AMERICAS
LLC,

Defendants.

Case No: 19-cv-10023-KPF

**SUPPLEMENTAL STATEMENT OF MATERIAL FACTS IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 56.1, Petróleos de Venezuela, S.A. ("PDVSA"), PDVSA Petróleo, S.A., ("PDVSA Petróleo"), and PDV Holding, Inc. ("PDV Holding" and, together with PDVSA and PDVSA Petróleo, "Plaintiffs") respectfully state that the following are material facts as to which there is no genuine issue to be tried.¹

I. Venezuela's Continued Reliance on Oil and Economic Deterioration

1. Oil continues to play a dominant role in Venezuela's economy, with public reporting indicating that oil financed almost two-thirds of Venezuela's budget in 2023.²

2. Venezuela's gross domestic product shrank by approximately three quarters

¹ This Supplemental Statement of Material Facts supplements Plaintiffs' prior Statement of Material Facts in support of Plaintiffs' Motion for Summary Judgment, as well as Plaintiffs' Response to Defendants' Statement of Undisputed Material Facts in Support of Defendants' Cross-Motion for Summary Judgment. *See* Dkts. 98 (sealed), 118 (public); 153 (sealed), 166 (public).

² Mayela Armas, *Venezuela sees oil exports financing almost two-thirds of 2023 budget*, REUTERS (Dec. 5, 2022, 9:43 AM), <https://www.reuters.com/world/americas/venezuela-sees-oil-exports-financing-almost-two-thirds-2023-budget-2022-12-05/>.

between 2014 and 2021³ and its debt rose to more than \$150 billion.⁴

3. According to the Congressional Research Service, annual inflation in Venezuela was 190 percent in 2023.⁵

4. Venezuela is in the midst of an economic and humanitarian crisis, with shortages of basic goods such as food, drinking water, gasoline, and medical supplies.⁶

5. The Congressional Research Service reports that 82% of Venezuela's 26.5 million residents lived in poverty as of 2023.⁷

II. Continued U.S. Recognition of the National Assembly as the Only Legitimate Government of Venezuela

6. Since January 5, 2019, the United States has recognized the National Assembly, seated in 2016 (the "2015 National Assembly"), as the only legitimate government of Venezuela.⁸

7. The State Department repeatedly voiced its continuing support for and recognition of the 2015 National Assembly in various public statements, including but not limited to:

³ CONG. RSCH. SERV., R44841, VENEZUELA: BACKGROUND AND U.S. RELATIONS 1 (2022), <https://sgp.fas.org/crs/row/R44841.pdf>.

⁴ Steven T. Kargman, *Venezuela: Prospects for Restructuring Sovereign Debt & Rebuilding a National Economy Against the Backdrop of a Failing State*, OXFORD BUS. L. BLOG (Oct. 18, 2021), <https://blogs.law.ox.ac.uk/business-law-blog/blog/2021/10/venezuela-prospects-restructuring-sovereign-debt-and-rebuilding>.

⁵ CONG. RSCH. SERV., IF10230, VENEZUELA: POLITICAL CRISIS AND U.S. POLICY 1 (2025), <https://crsreports.congress.gov/product/pdf/IF/IF10230>.

⁶ *Id.*; see also Kargman, *supra* note 4.

⁷ CONG. RSCH. SERV., *supra* note 5; see also Kargman, *supra* note 4; Vivian Sequera, *Venezuela Poverty Rate Falls to 50.5% in 2022-Study*, REUTERS (Nov. 10, 2022, 1:36 PM), <https://www.reuters.com/world/americas/venezuela-poverty-rate-falls-505-2022-study-2022-11-10/>.

⁸ Press Statement, Robert J. Palladino, Deputy Spokesperson, U.S. Dep't of State, Swearing in of Venezuela's New National Assembly President (Jan. 5, 2019), <https://2017-2021-translations.state.gov/2019/01/05/statement-by-robert-palladino-swearing-in-of-venezuelas-new-national-assembly-president/> ("The National Assembly is the only legitimate and last remaining democratically elected institution that truly represents the will of the Venezuelan people."); see also Press Release, John Kirby, Spokesperson of Public Affairs, U.S. Dep't of State, Seating of the Venezuelan National Assembly (Jan. 5, 2016), <https://2009-2017.state.gov/r/pa/prs/ps/2016/01/250972.htm> (first "recogni[zing]" in January 2016, the "new, democratically-elected National Assembly"); Press Statement, Heather Nauert, Spokesperson, U.S. Dep't of State, Assumption of Legislative Powers in Venezuela (Aug. 18, 2017), <https://2017-2021.state.gov/assumption-of-legislative-powers-in-venezuela/> ("[S]trongly condemn[ing]" the Maduro-aligned Constituent Assembly's purported assumption of power, and recognizing that "the democratically-elected National Assembly is the only legitimate legislative body.").

- a. “The United States continues to recognize the democratically elected 2015 National Assembly as the last remaining democratic institution in Venezuela, and we welcome the agreement reached to extend its authority.”⁹
- b. “[O]ur approach to Nicolás Maduro is not changing. He is not the legitimate leader of Venezuela. We recognize the 2015 National Assembly . . . Juan Guaidó remains a member of the 2015 National Assembly, which we recognize – the 2015 National Assembly – because it is the last democratically elected institution in the country.”¹⁰
- c. “Today @statedept met with @Dinorahfiguera, the President of the last democratically elected institution in Venezuela. We continue to support her and the National Assembly’s efforts to return Venezuela to the democracy its people deserve.”¹¹
- d. “The United States does not recognize Maduro and his representatives as the Government of Venezuela. U.S. policy supports the 2015 National Assembly and the Venezuelan people in their struggle for a stable, democratic, and prosperous Venezuela. On January 10, 2019, the term of former president Nicolás Maduro ended. The 2015 National Assembly remains the only national democratically elected institution in Venezuela.”¹²
- e. “The United States recognizes the 2015 democratically elected Venezuelan National Assembly as the only legitimate branch of the Government of Venezuela. The United States and the 2015 National Assembly collaborate closely to achieve the goal of a peaceful restoration of democracy via competitive and inclusive presidential and parliamentary elections.”¹³
- f. “We have not changed our formal recognition of the government of Venezuela since 2015, . . . and that is that we recognize the 2015 National Assembly.”¹⁴

⁹ Press Statement, Ned Price, Dep’t Spokesperson, U.S. Dep’t of State, Venezuela’s Interim Government and the 2015 National Assembly (Jan. 3, 2023), <https://www.state.gov/venezuelas-interim-government-and-the-2015-national-assembly/>.

¹⁰ Department Press Briefing, Ned Price, Dep’t Spokesperson, U.S. Dep’t of State (Jan. 3, 2023), <https://www.state.gov/briefings/departments-press-briefing-january-3-2023/>.

¹¹ Bureau of Western Hemisphere Affairs (@WHAAsstSecty), X (Mar. 15, 2023, 2:53 PM), <https://twitter.com/WHAAsstSecty/status/1636078164991684608> (statements of Assistant Secretary of State Brian Nichols).

¹² U.S. DEP’T OF STATE, 2024 TRAFFICKING IN PERSONS REPORT: VENEZUELA (June 24, 2024), <https://www.state.gov/reports/2024-trafficking-in-persons-report/venezuela/>.

¹³ U.S. DEP’T OF STATE, U.S. RELATIONS WITH VENEZUELA, BILATERAL RELATIONS FACT SHEET (July 18, 2024), <https://www.state.gov/u-s-relations-with-venezuela/>.

¹⁴ Press Briefing, John Kirby, White House Nat’l Sec. Commc’ns. Advisor, The White House (Aug. 7, 2024), <https://www.whitehouse.gov/briefing-room/press-briefings/2024/08/07/on-the-record-press-gaggle-by-white-house-national-security-communications-advisor-john-kirby-19/>.

III. The Maduro Regime's Continuing Corruption

8. In July 2024, Venezuela held presidential elections for the first time since 2018.¹⁵

9. On July 28, 2024, Maduro declared to have won his third term by 51.2% in a disputed election.¹⁶

10. Thereafter, international observers concluded that the elections did not meet international standards, and that the government of Maduro failed to uphold the democratic standards for the election it had committed to in the Barbados Deal, its October 2023 agreement with Venezuela's opposition alliance, the Unitary Platform (PUD).¹⁷

11. On August 1, 2024, U.S. Secretary of State Antony Blinken issued a press statement that the Maduro-controlled National Electoral Council's ("CNE") results "were deeply flawed,

¹⁵ CONG. RSCH. SERV., IN12345, VENEZUELA'S 2024 PRESIDENTIAL ELECTION at 1 (updated Aug. 2, 2024), <https://crsreports.congress.gov/product/pdf/IN/IN12354>; see also Vivian Sequera & Mayela Armas, *Venezuela Sets Presidential Election for July 28*, REUTERS (Mar. 5, 2024, 10:33 PM), <https://www.reuters.com/world/americas/venezuela-presidential-election-be-held-july-28-electoral-council-2024-03-05/>.

¹⁶ Sequera & Armas, *supra* note 31; see also CONG. RSCH. SERV., *supra* note 15; Anatoly Kurmanaev, Frances Robles & Julie Turkewitz, *Venezuela's Autocrat Is Declared Winner in Tainted Election*, N.Y. TIMES (July 28, 2024), <https://www.nytimes.com/2024/07/28/world/americas/venezuela-election-results.html>.

¹⁷ See, e.g., Permanent Council, Org. of Am. States, Resolution on The Situation in Venezuela, CP/RES. 1261 (2508/24) (Aug. 16, 2024), https://www.oas.org/en/council/CP/documentation/res_decs/ ("recalling" the Barbados Agreement and "[n]oting with concern reports of serious irregularities and violence associated with the electoral process in the Bolivarian Republic of Venezuela, following the elections held on July 28, 2024"); Eur. Parl., Resolution of 19 September 2024 on the Situation in Venezuela, 2024/2810(RSP) (Sept. 19, 2024), https://www.europarl.europa.eu/doceo/document/TA-10-2024-0013_EN.html ("The European Parliament . . . [s]trongly condemns and fully rejects the electoral fraud orchestrated by the regime-controlled [National Electoral Council], which refused to make public the official result by publishing the tally sheet of each polling station, despite repeated calls from the international community; highlights that the Venezuelan regime has failed to respect the Barbados Agreement in relation to the presidential election, making the holding of a free and fair election impossible[.]"); Statement, Javier Martínez-Acha Vásquez, Former Minister of Panama, U.S. Mission to the United Nations, Joint Statement on the Venezuela Elections (Sept. 12, 2024), <https://usun.usmission.gov/joint-statement-on-the-venezuela-elections/> (joint statement by 56 United Nations member states expressing "grave[] concern[] about reported human rights abuses and violations following the elections, including those involving repression, arbitrary arrests and detentions, killings, denials of fair trial guarantees as well as intimidation tactics against the democratic opposition, including the raid of the opposition's headquarters," and U.N. Panel of Experts report finding "that the electoral process fell short of 'the basic transparency and integrity measures' essential to holding credible elections"); Statement, The Carter Center, Carter Center Statement on Venezuela Election, (July 30, 2024), <https://www.cartercenter.org/news/pr/2024/venezuela-073024.html> (asserting that the election "did not meet international standards of electrical integrity at any of its stages and violated numerous provisions of [Venezuela's] own national laws.").

yielding an announced outcome that does not represent the will of the Venezuelan people.” The press statement further indicated that, “Given the overwhelming evidence, it is clear to the United States and, most importantly, to the Venezuelan people that Edmundo González Urrutia won the most votes in Venezuela’s July 28 presidential election.”¹⁸

12. On November 19, 2024, U.S. Secretary of State Antony Blinken called Venezuela’s Edmundo Gonzalez the country’s “president-elect.”¹⁹

13. On January 10, 2024, the State Department asserted that Maduro had repeatedly incorrectly claimed victory in the July 28, 2024 presidential election, and made unsubstantiated allegations against opposition leaders including Edmundo González and María Corina Machado.²⁰ The State Department, in concert with the G7 foreign ministers, reaffirmed that the Venezuelan people voted for President-Elect Edmundo González by a significant majority.²¹

14. Despite repeated calls from the United States and the international community for transparency and publication of full election results,²² the State Department has reported that the

¹⁸ Statement, Antony J. Blinken, Sec’y of State, U.S. Embassy & Consulates in Brazil, Assessing the Results of Venezuela’s Presidential Election (Aug. 1, 2024), <https://br.usembassy.gov/assessing-the-results-of-venezuelas-presidential-election/>.

¹⁹ Anthony J. Blinken (@SecBlinken), X (Nov. 19, 2024, 3:30 PM), <https://x.com/SecBlinken/status/1858971068314382481>. Simon Lewis, *Blinken calls Venezuela’s opposition leader Gonzalez ‘president-elect’*, REUTERS (Nov. 19, 2024, 6:54 PM), <https://www.reuters.com/world/americas/blinken-calls-venezuelas-opposition-leader-gonzalez-president-elect-2024-11-19/>.

²⁰ Media Note, Off. of the Spokesperson, U.S. Dep’t of State, G7 Denounces the Lack of Democratic Legitimacy of Today’s Presidential Inauguration in Venezuela (Jan. 10, 2025), <https://www.state.gov/office-of-the-spokesperson/releases/2025/01/g7-denounces-the-lack-of-democratic-legitimacy-of-todays-presidential-inauguration-in-venezuela>; see also CONG. RSCH. SERV., *supra* note 17; Vivian Sequera, Deisy Buitrago & Mayela Armas, *Venezuela’s Maduro, Opposition Each Claim Presidential Victory*, REUTERS (July 30, 2024, 1:04 PM), <https://www.reuters.com/world/americas/venezuelans-vote-highly-charged-election-amid-fraud-worries-2024-07-28/>; Matt Berg & Eric Bazail-Eimil, *Maduro May Cry Murder to Silence Machado*, POLITICO (Aug. 20, 2024, 4:08 PM), <https://www.politico.com/newsletters/national-security-daily/2024/08/20/maduro-may-cry-murder-to-silence-machado-00175007>; Vivian Sequera & Mayela Armas, *Venezuela Issues Arrest Warrant for Opposition Leader Gonzalez, AG Says*, REUTERS (Sept. 4, 2024, 5:36 PM), <https://www.reuters.com/world/americas/venezuela-attorney-general-requests-arrest-warrant-opposition-leader-gonzalez-2024-09-02/>.

²¹ Jan. 10, 2025 Media Note, *supra* note 36.

²² Press Statement, Matthew Miller, Dep’t Spokesperson, U.S. Dep’t of State, Marking One Month Since Venezuela’s Presidential Election (Aug. 29, 2024), <https://www.state.gov/marking-one-month-since-venezuelas-presidential->

CNE has not come forth with any data or vote tally sheets corroborating Maduro's claimed election results.²³

15. Additionally, the U.S. Government has continued to assert the illegitimacy of the Supreme Tribunal of Justice (the "Supreme Tribunal")—Venezuela's highest court—since February 2019. In particular, Office of Foreign Assets Control ("OFAC") has issued sanctions against at least seventeen Supreme Tribunal officials between 2020 and 2024.²⁴ In press releases announcing the sanctions, OFAC has stated that the Supreme Tribunal is "controlled by the illegitimate Maduro regime."²⁵

16. OFAC has also stated that the Supreme Tribunal "impeded a transparent electoral process and the release of accurate election results"²⁶ and the U.S. State Department has

election/; Press Release, Governments of Brazil, Colombia, & Mexico, Second Joint Statement by Brazil, Colombia, and Mexico on the Elections in Venezuela (Aug. 8, 2024), <https://www.gob.mx/sre/prensa/second-joint-statement-by-brazil-colombia-and-mexico-on-the-elections-in-venezuela>; see also Chase Harrison, Gladys Gerbaud & Khalea Robertson, *How Have International Leaders Responded to Venezuela's 2024 Election?*, AMERICAS SOC'Y/COUNCIL OF THE AMERICAS (Aug. 19, 2024), <https://www.as-coa.org/articles/how-have-international-leaders-responded-venezuelas-2024-election/>; Declaration, Presidency of the Council of Ministers, Italian Government, Joint Declaration on Venezuela (Aug. 3, 2024), <https://www.governo.it/en/articolo/joint-declaration-venezuela/26426> (Joint Declaration on Venezuela by the President of the Council of Ministers of the Italian Republic, the President of the French Republic, the Chancellor of the Federal Republic of Germany, the President of the Government of Spain, the Prime Minister of the Netherlands, the Prime Minister of the Republic of Poland, the Prime-Minister of the Portuguese Republic); Federico Rivas Molina & Lorena Arroyo, *Venezuela declares Maduro winner of election, but US and others question the result*, EL PAÍS (July 29, 2024, 4:59 AM), <https://english.elpais.com/international/2024-07-29/venezuela-declares-maduro-winner-of-election-but-us-and-others-question-the-result.html>.

²³ Media Note, Off. of the Spokesperson, U.S. Dep't of State, Joint Statement on Venezuela Election (Aug. 16, 2024), <https://www.state.gov/joint-statement-on-venezuela-election/>; see also *Edison Research Conducts Exit Poll in Venezuela*, Edison Rsch. (July 28, 2024), <https://www.edisonresearch.com/edison-research-conducts-exit-poll-in-venezuela/> (polling showed 65% of the vote went to Edmundo González, while only 31% went to Maduro); see also Joshua Goodman, *Venezuelan Electoral Official Asserts "Lack of Transparency and Veracity" in Maduro's Reelection*, ASSOCIATED PRESS (Aug. 26, 2024, 4:46 PM), <https://apnews.com/article/venezuela-election-maduro-electoral-official-aa924123016cf41d69b8fdaa4eca0857>.

²⁴ See Press Release, U.S. Dep't of the Treasury, Treasury Sanctions Maduro Regime Officials for Undermining Democratic Order in Venezuela (Sept. 4, 2020), <https://home.treasury.gov/news/press-releases/sm1115>; Press Release, U.S. Dep't of the Treasury, Treasury Continues Pressure On Illegitimate Regime Officials Undermining Democracy in Venezuela (Sept. 22, 2020), <https://home.treasury.gov/news/press-releases/sm1132>; Press Release, U.S. Dep't of the Treasury, Treasury Targets Venezuelan Officials Aligned with Nicolas Maduro in Response to Electoral Fraud (Sept. 12, 2024), <https://home.treasury.gov/news/press-releases/jy2577>.

²⁵ Sept. 4, 2020 Press Release, *supra* note 24.

²⁶ See Sept. 12, 2024 Press Release, *supra* note 24.

determined that the Supreme Tribunal’s ruling that Maduro won the election “lacks all credibility.”²⁷

17. On January 11, 2024, a faction of the National Assembly aligned with Maduro formed a Special Commission to Investigate the Participation of Political Parties and Representatives of the Legislature of 2016-2021 in the Plundering and Theft of CITGO (the “Special Commission”).²⁸

18. On October 22, 2024, the Special Commission issued a report (the “Report”) alleging that the U.S. Government conspired with the directors and officers of CITGO to “steal” CITGO by employing sanctions, regulations, and litigation to transfer CITGO to private entities for illegal purposes.²⁹ The Report rests its allegations on quotes from U.S. executive branch officials, Executive Orders, and the general licenses related to U.S. sanctions.³⁰ The Report also claimed CITGO was found to be an “alter ego” of the fake government of Guaidó and that the actions by the Guaidó government allowed for alter ego claims to be successful.³¹ In sum, the Report shifts the blame for the Maduro regime’s mismanagement of CITGO to the United States.³²

²⁷ Press Statement, Vedant Patel, Principal Deputy Spokesperson, U.S. Dep’t of State, *On the ruling of Venezuela’s Supreme Tribunal of Justice* (Aug. 23, 2024), <https://www.state.gov/on-the-ruling-of-venezuelas-supreme-tribunal-of-justice/>.

²⁸ CITGO – THE BIGGEST THEFT IN THE HISTORY OF VENEZUELA, SPECIAL INVESTIGATION COMM’N OF THE NAT’L ASSEMBLY OF VENEZUELA (April 2024), Ex. 5; *see also Treasury Targets Venezuelan Officials Aligned with Nicolas Maduro in Response to Electoral Fraud*, U.S. EMBASSY IN CHILE (Sept. 12, 2024), <https://cl.usembassy.gov/treasury-targets-venezuelan-officials-aligned-with-nicolas-maduro-in-response-to-electoral-fraud/> (discussing the Special Commission investigation into CITGO and noting it was “part of the ‘Bolivarian Fury’ campaign launched in January 2024 against the democratic opposition” that “subpoenaed several opposition members in seemingly politically motivated prosecutions”).

²⁹ Ex. 5, SPECIAL INVESTIGATION COMM’N OF THE NAT’L ASSEMBLY, at 7.

³⁰ *See generally id.*

³¹ *Id.* at 43.

³² *See generally id.*

19. The Report also identifies more than 300 individuals—including 50 U.S. citizens and residents—who are allegedly tied to the allegations in the Report.³³ The Report recommends that the Venezuelan Public Prosecutor’s Office begin investigations into the individuals identified in the Report and issue indictments, followed by Red Notices to Interpol.³⁴

IV. The Maduro Regime’s Illegitimacy under U.S. Law and by International Consensus

20. Since January 5, 2019, the Maduro regime has consistently been regarded as illegitimate by the United States.³⁵

21. The United States has issued numerous public statements pronouncing the Maduro regime’s illegitimacy since September 2020, including but not limited to the following:

- a. “On December 6, the illegitimate Maduro regime in Venezuela staged a political farce intended to look like legislative elections. Fortunately, few were fooled. The United States, along with numerous other democracies around the world, condemns this charade which failed to meet any minimum standard of credibility.”³⁶
- b. “The United States has sanctioned three individuals and 11 entities for their ties to a network helping Nicolás Maduro and his illegitimate regime evade U.S. sanctions on Venezuela’s oil sector.”³⁷

³³ *Id.* at 36.

³⁴ *Id.* at 37.

³⁵ See Press Statement, Robert J. Palladino, Deputy Spokesperson, U.S. Dep’t of State, Swearing in of Venezuela’s New National Assembly President (Jan. 5, 2019), <https://2017-2021-translations.state.gov/2019/01/05/statement-by-robert-palladino-swearing-in-of-venezuelas-new-national-assembly-president/>.

³⁶ Press Release, U.S. Dep’t of State, U.S. Embassy of Haiti, The United States Condemns Venezuela’s Fraudulent Legislative Elections (Dec. 7, 2020), <https://ht.usembassy.gov/the-united-states-condemns-venezuelas-fraudulent-legislative-elections/>.

³⁷ Press Statement, Michael R. Pompeo, Sec’y of State, U.S. Dep’t of State, The United States Takes Further Action Against Enablers of Venezuelan Oil Transactions, Including Sanctions Evasion Network (Jan. 19, 2021), <https://2017-2021.state.gov/the-united-states-takes-further-action-against-enablers-of-venezuelan-oil-transactions-including-sanctions-evasion-network/>.

- c. “[O]ur engagement with Maduro — who we don’t recognize, as you know, as the leader of Venezuela but who is detaining American citizens — was to bring American citizens home.”³⁸
- d. “In terms of our approach to Nicolás Maduro, our approach has not changed. He is illegitimate.is illegitimate. We support the 2015 National Assembly as the only remaining vestige of democracy in Venezuela.”³⁹
- e. “The United States recognizes the 2015 democratically elected Venezuelan National Assembly as the only legitimate branch of the Government of Venezuela.”⁴⁰
- f. “The United States does not recognize Maduro and his representatives as the Government of Venezuela. U.S. policy supports the 2015 National Assembly and the Venezuelan people in their struggle for a stable, democratic, and prosperous Venezuela. On January 10, 2019, the term of former president Nicolás Maduro ended. The 2015 National Assembly remains the only national democratically elected institution in Venezuela.”⁴¹
- g. The United States “conclusively recognize[s] the Guaidó government as the legitimate government of Venezuela (in lieu of the illegitimate Maduro regime) [and] via the State Department, has further recognized that it has no reason to doubt the veracity of representations by Venezuela concerning the independence of the PDVSA, PDVH, and CITGO boards.”⁴²
- h. “Venezuela’s Supreme Tribunal of Justice ruled yesterday that Nicolas Maduro won the July 28 presidential election against democratic opposition candidate Edmundo Gonzalez. This ruling lacks all credibility, given the overwhelming evidence that Gonzalez received the most votes on July 28.”⁴³
- i. “The United States joins a broad range of international partners in strongly condemning the unjustified arrest warrant issued in Venezuela for Edmundo González Urrutia. González Urrutia won the most votes in Venezuela’s July 28 presidential election, and this arbitrary and politically motivated action is a low

³⁸ Press Briefing, Jen Psaki, White House Press Sec’y, The White House (March 10, 2022), <https://www.whitehouse.gov/briefing-room/press-briefings/2022/03/10/press-briefing-by-press-secretary-jen-psaki-march-9-2022/>.

³⁹ Jan. 3, 2023 Dep’t Press Briefing, *supra* note 10.

⁴⁰ U.S. RELATIONS WITH VENEZUELA, *supra* note 13.

⁴¹ 2024 TRAFFICKING IN PERSONS REPORT: VENEZUELA, *supra* note 12.

⁴² Supplemental Brief in Support of the Statement of Interest of the United States at 3, *Crystallex Int’l Corp. v. Bolivarian Republic of Venezuela*, No. 17-mc-151 (D. Del. Aug. 28, 2020), Dkt. 220.

⁴³ Press Statement, Vedant Patel, Principal Deputy Spokesperson, U.S. Dep’t of State, On the ruling of Venezuela’s Supreme Tribunal of Justice (Aug. 23, 2024), <https://www.state.gov/on-the-ruling-of-venezuelas-supreme-tribunal-of-justice/>.

point in Nicolás Maduro’s ruthless pursuit of his political opponents following his attempts to steal the July 28 presidential election.”⁴⁴

- j. “[T]he United States government is taking [two important actions] to hold Nicolás Maduro and his representatives accountable for conducting electoral fraud, falsifying election results, and intensifying repression against the Venezuelan people in order to silence their voices and their vote and to illegitimately extend Maduro’s rule.”⁴⁵

22. The international community has recognized that the Maduro regime’s continued de facto control over the government in Venezuela is illegitimate, and based on fraudulent elections and political persecution of opposition figures:

- a. “The leaders of foreign affairs committees of the U.S. Congress and legislatures [from Armenia, Moldova, Latvia, Italy, Poland, Lithuania, Germany, Estonia, Finland, Ireland, Denmark and Romania] have joined to condemn the Venezuelan government’s handling of last weekend’s disputed election”⁴⁶
- b. “The European Parliament today (September 19) approved a resolution that recognizes the presidency of Edmundo González Urrutia in Venezuela as ‘legitimate and democratically elected’ and ‘strongly condemns and rejects in toto the electoral fraud.’”⁴⁷
- c. A report on Venezuela commissioned by the U.N.-backed Human Rights Council identified human rights violations, including arbitrary detentions, torture, and sexual and gender-based violence by the country’s security forces that “taken as a whole, constitute the crime against humanity of persecution on political grounds ... against persons who are critical of the Government and real or perceived political opponents.” The report covered before and after “the presidential election of 28 July 2024,” when the Venezuela “reactivated and intensified the harshest and most violent mechanisms of its repressive apparatus.”⁴⁸

⁴⁴ Press Statement, Matthew Miller, Dep’t Spokesperson, U.S. Dep’t of State, Condemning the Arrest Warrant for Edmundo González Urrutia (Sept. 3, 2024), <https://www.state.gov/condemning-the-arrest-warrant-for-edmundo-gonzalez-urrutia/>.

⁴⁵ Special Press Briefing, Office of the Spokesperson, U.S. Dep’t of State, Senior State Administration Officials on Venezuela (Sept. 12, 2024), <https://www.state.gov/senior-state-administration-officials-on-venezuela/>.

⁴⁶ Patricia Zengerle, *Exclusive: US, European lawmakers jointly condemn Venezuela's handling of election*, REUTERS (Aug. 2, 2024, 2:04 PM), <https://www.reuters.com/world/americas/us-european-lawmakers-jointly-condemn-venezuelas-handling-election-2024-08-02/>.

⁴⁷ Noemi Morucci, *EU Parliament, Right-Wing Majority Attempts: Maduro Condemned by Compact Voting of EPP, ECR, and Sovereignists*, EUNews (Sept. 19, 2024), <https://www.eunews.it/en/2024/09/19/eu-parliament-right-wing-majority-attempts-maduro-condemned-by-compact-voting-of-epp-ecr-and-sovereignists/>.

⁴⁸ Human Rights Council, Report of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, U.N. Doc. A/HRC/57/57, at 8–15, 19 (Sept. 17, 2024),

- d. An Al Jazeera report dated September 3, 2024 describes condemnation of the Maduro regime's issuance of a warrant for the arrest of the legitimate winner of the July 28, 2024 presidential elections from Canada, Argentina, Costa Rica, Guatemala, Paraguay, Peru, the Dominican Republic, Uruguay, and Brazil.⁴⁹

23. As of August 2, 2024, the following countries recognized Maduro as the legitimate winner of the 2024 presidential election: Russia, China, Iran, North Korea, Syria, Bolivia, Cuba, Honduras, and Nicaragua.⁵⁰

24. On January 10, 2025, U.S. Secretary of State Anthony Blankens issued a statement describing Maduro's third presidential inauguration as "illegitimate," "reject[ing] the [Maduro-aligned] National Electoral Council's fraudulent announcement that Maduro won the presidential election," and reiterating that "[t]he United States . . . does not recognize Nicolás Maduro as the president of Venezuela."⁵¹

V. The United States Sanctions Regime Continues to Support This Litigation and the National Assembly as the Legitimate Government of Venezuela, and to Reject the Illegitimate Maduro Regime.

25. The U.S. sanctions regime has been restrictive for the holders of the 2020 Notes since at least October 24, 2019, when OFAC replaced General License 5 with General License 5A,

<https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session57/advance-versions/a-hrc-57-57-en.pdf>.

⁴⁹ *International Leaders Condemn Arrest Order for Venezuelan Opposition Leader*, AL JAZEERA (Sept. 3, 2024), <https://www.aljazeera.com/news/2024/9/3/international-leaders-condemn-arrest-order-for-venezuelan-opposition-leader>.

⁵⁰ CONG. RSCH. SERV., *supra* note 17, at 2 ("The governments of China, Russia, Cuba, and Iran, among several others have congratulated Maduro on his victory."); *see also* Jesus Mesa, *Venezuela Elections: Map Shows Countries That Have Recognized Maduro's Win*, NEWSWEEK (July 31, 2024, 5:32 AM), <https://www.newsweek.com/venezuela-elections-map-shows-countries-that-have-recognized-maduros-win-1931498>.

⁵¹ Press Statement, Anthony J. Blinken, Sec'y of State, U.S. Dep't of State, *Condemning Nicolás Maduro's Illegitimate Attempt to Seize Power in Venezuela and Announcing New Actions Against Maduro and His Representatives and to Support the Venezuelan People* (Jan. 10, 2025), <https://www.state.gov/office-of-the-spokesperson/releases/2025/01/condemning-nicolas-maduros-illegitimate-attempt-to-seize-power-in-venezuela-and-announcing-new-actions-against-maduro-and-his-representatives-and-to-support-the-venezuelan-people>.

which delayed the effective date of the authorization to foreclose until January 22, 2020.⁵²

26. Since issuing General License 5, OFAC has issued 17 licenses delaying its effectiveness, continuing through to the present, when on November 7, 2024, OFAC issued General License 5Q, which amended General License 5P and moved its effective date to March 7, 2025.⁵³

27. General License 31B (updated Jan. 9, 2023)⁵⁴ makes clear that the 2015 National Assembly, its representatives, and appointees are authorized to transact with U.S. persons as representatives of the Government of Venezuela and state-appointed bodies such as the PDVSA Ad Hoc Board, stating:

- a. “U.S. persons are authorized to engage in all transactions prohibited by Executive Order 13884 . . . involving [the 2015 National Assembly]; its Delegated Commission; any entity established by, or under the direction of [the 2015 National Assembly].”
- b. “U.S. persons are authorized to engage in all transactions prohibited by E.O. 13850, as amended by E.O. 13857, and incorporated into the VSR, involving any person appointed or designated by, or whose appointment or designation is retained by, the [2015 National Assembly], its Delegated Commission, or a [2015 National Assembly] Entity to the board of directors (including any ad hoc board of directors) or as an executive officer of a Government of Venezuela entity (including entities owned or controlled, directly or indirectly, by the Government of Venezuela).”

28. Issued on January 9, 2023, General License 31B does not authorize transactions by the Maduro regime, stating, “This general license does not authorize: (1) Any transaction involving the Venezuelan National Constituent Assembly convened by Nicolas Maduro or the National

⁵² OFAC License, Ex. 131 to Defs.’ Mot. for Summ. J. at 1, Dkt. 104-9, 112-9; OFAC License, Ex. 134 to Defs.’ Mot. for Summ. J. at 1, Dkt. 104-12, 112-12; Compl. ¶ 69.

⁵³ OFAC, U.S. Dep’t of the Treasury, Venezuela General License No. 5Q (Nov. 7, 2024), <https://ofac.treasury.gov/media/933576/download?inline>.

⁵⁴ OFAC, U.S. Dep’t of the Treasury, Venezuela General License No. 31B (Jan. 9, 2023), <https://ofac.treasury.gov/media/930241/download?inline>.

Assembly seated on January 5, 2021, including their respective members and staff[.]”⁵⁵

29. Issued on May 1, 2023, General License 42 allows negotiations of certain settlement agreements involving debt of the Government of Venezuela with the National Assembly, as well as the Ad Hoc Board, but prohibits such negotiations with the Maduro regime, stating in part: “This authorization . . . includes the negotiation of settlement agreements with persons appointed or designated by, or whose appointment or designation is retained by, [the 2015 National Assembly] to the board of directors (including any ad hoc boards of directors. . . .”⁵⁶

30. OFAC FAQ 1125 makes clear that “[f]or the purposes of GL 42, the term “IV National Assembly” means the IV Venezuelan National Assembly seated on January 5, 2016; GL 42 does not authorize transactions involving the Venezuelan National Constituent Assembly convened by Nicolas Maduro or the National Assembly seated on January 5, 2021.”⁵⁷

31. OFAC has confirmed that the U.S. government’s sanctions regime supports the 2015 National Assembly:

- a. “The United States stands with the Venezuelan people and the [2015 National Assembly] in opposition to the Maduro regime. . . . [General License 31B] also covers transactions . . . with respect to any person appointed or designated by, or whose appointment or designation is retained by, the [2015 National Assembly], its Delegated Commission, or a [2015 National Assembly] Entity to the board of directors (including any ad hoc board of directors). . . .”⁵⁸
- b. “Treasury will continue to use its economic tools to support the [2015 National Assembly] seated on January 5, 2016 and the Venezuelan people’s efforts to restore their democracy.”⁵⁹
- c. “In the Lima Declaration of August 8, 2017, 12 countries across the Americas refused to recognize the Constituent Assembly or the laws it adopts because of its

⁵⁵ *Id.*

⁵⁶ OFAC, U.S. Dep’t of the Treasury, Venezuela General License No. 42 (May 1, 2023), <https://ofac.treasury.gov/media/931696/download?inline>.

⁵⁷ OFAC, U.S. Dep’t of the Treasury, OFAC FAQ No. 1125 (May 1, 2023), <https://ofac.treasury.gov/faqs/1125>.

⁵⁸ OFAC, U.S. Dep’t of the Treasury, OFAC FAQ No. 679 (Jan. 9, 2023), <https://ofac.treasury.gov/faqs/679>.

⁵⁹ OFAC, U.S. Dep’t of the Treasury, OFAC FAQ No. 660 (Jan. 9, 2023), <https://ofac.treasury.gov/faqs/660>.

illegitimate nature, while at the same time fully backing the democratically elected [2015 National Assembly]. We stand in solidarity with our friends and allies in the region.”⁶⁰

32. In October 2023, in connection with attempts to negotiate a democratic turnover in Venezuela, the Biden Administration issued a six-month license temporarily lifting U.S. sanctions on the oil and gas industries.⁶¹

33. In April 2024, the Biden Administration reimposed oil and gas sanctions on Venezuela in light of Maduro’s failure to comply with a U.S.-supported agreement to allow opposition candidates and parties to run in the July 2024 elections.⁶²

34. In response to the reimposition of sanctions, Maduro was reported to state: “We are going to keep moving forward with a license or without a license.”⁶³

35. In June 2024, U.S. Representatives Debbie Wasserman Schultz (FL-25) and Maria Elvira Salazar (FL-27) issued a letter requesting that U.S. Treasury Secretary Janet Yellen and Attorney General Merrick Garland extend and reissue licenses to protect CITGO from the forced *Crystallex* sale.⁶⁴

36. Representatives Wasserman Schultz and Salazar recognized that CITGO is a

⁶⁰ OFAC, U.S. Dep’t of the Treasury, OFAC FAQ No. 522 (Jan. 9, 2023), <https://ofac.treasury.gov/faqs/522>.

⁶¹ OFAC, U.S. Dep’t of the Treasury, Venezuela General License No. 44 (Oct. 18, 2023), <https://ofac.treasury.gov/media/932231/download?inline>; see also Matt Spetalnick & Marianna Parraga, *U.S. Broadly Eases Venezuela Oil Sanctions After Election Deal*, REUTERS (Oct. 19, 2023, 3:37 PM), <https://www.reuters.com/world/americas/us-easing-venezuela-oil-sanctions-response-election-deal-official-2023-10-18/>.

⁶² Department Press Briefing, Matthew Miller, Dep’t Spokesperson, U.S. Dep’t of State (Apr. 16, 2024), <https://www.state.gov/briefings/departments-press-briefing-april-16-2024/>; John Otis, *Biden Reinstates Sanctions on Venezuela*, NPR (Apr. 18, 2024, 6:02 PM), <https://www.npr.org/2024/04/18/1245650630/biden-reinstates-sanctions-on-venezuela>.

⁶³ Karen DeYoung & Samantha Schmidt, *Biden Administration to Reimpose Oil and Gas Sanctions in Venezuela*, WASH. POST (Apr. 18, 2024), <https://www.washingtonpost.com/national-security/2024/04/17/venezuela-oil-sanctions-biden/>.

⁶⁴ Press Release, Debbie Wasserman Schultz, U.S. Rep., House of Representatives, Wasserman Schultz, Salazar Lead Effort to Block Forced Sale of Venezuelan Assets Held By Pro-Democracy Opposition (June 5, 2024), <https://wassermanschultz.house.gov/news/documentsingle.aspx?DocumentID=3206>.

critical and strategic sovereign asset of Venezuela and that PDVSA's loss of CITGO would "deliver a devastating blow to proponents of democracy in Venezuela."⁶⁵

37. Representatives Wasserman Schultz and Salazar further recognized that protecting PDVSA's ownership in CITGO will ensure Maduro is not able to take advantage of his "negligent debt decisions."⁶⁶ "The forced sale of CITGO is a give-away to the Maduro Regime and compromises the country's future. We must do whatever possible to delay the sale of these assets to ensure Venezuela can have a prosperous future once it is free of chavismo and Maduro."⁶⁷

38. Most recently, on January 10, OFAC imposed new sanctions on eight Maduro-aligned Venezuela officials, including the current Maduro-appointed purported head of PDVSA in Venezuela, Hector Obregon.⁶⁸ That same day, Acting Undersecretary of the U.S. Treasury Bradley Smith stated that "[t]he United States, together with our likeminded partners, stands in solidarity with the Venezuelan people's vote for new leadership and rejects Maduro's fraudulent claim of victory."⁶⁹

VI. The Republic of Venezuela Has Consistently Made Its Views Known

39. Before this Court, the Republic has stated that the "2020 Notes were issued as a result of an illegal and unconstitutional transaction aimed to circumvent the political control of the National Assembly over the public national interest contract" and that the "2020 Notes, including

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Press Release, U.S. Dep't of Treasury, Treasury Sanctions Venezuelan Officials Supporting Nicolas Maduro's Repression and Illegitimate Claim to Power (Jan. 10, 2025), <https://home.treasury.gov/news/press-releases/jy2778>; *see also* Matt Spetalnick & Marianna Parraga, *US and Allies Slap Sanctions on Venezuela Officials as Maduro Inaugurated*, REUTERS (Jan. 10, 2025, 12:59 PM), <https://www.reuters.com/world/americas/us-slaps-new-sanctions-venezuela-officials-maduro-inaugurated-2025-01-10/>.

⁶⁹ Treasury Sanctions, *supra* note 68.

the Pledge and Indenture, were therefore void ab initio.”⁷⁰

40. Before this Court, the U.S. Court of Appeals for the Second Circuit (the “Second Circuit”), and the New York Court of Appeals, the Republic explained that Articles 150 and 187(9) of the Venezuelan Constitution vest in the National Assembly sole authority to approve national public interest contracts with foreign companies, and mandate that, without legislative approval any such national public interest contract is rendered null and void ab initio.⁷¹

41. Before the Second Circuit and the New York Court of Appeals, the Republic submitted its sovereign view that “the Exchange Offer was [] unauthorized, unconstitutional, and void under Venezuelan law.”⁷²

42. The Republic has explained that Articles 150 and 187(9) of the Venezuelan Constitution place the burden of obtaining legislative approval on the state entity seeking to enter into a national public interest contract.⁷³

43. The Republic has asserted that without affirmative legislative authorization, a national public interest contract with a foreign company cannot constitutionally come into

⁷⁰ Letter from Carlos Vecchio, Ambassador of Venez. to U.S., to Hon. Katherine Polk Failla, at 7 (June 9, 2020), Dkt. 80 [hereinafter “Vecchio Letter”]; *see also id.* at 6 (“In a functioning rule of law system, the September 2016 Resolution should have prevented PDVSA from advancing the Exchange Offer and issuing the 2020 Notes. However, PDVSA and the 2017 Noteholders decided to ignore the September 016 Resolution and proceeded with the exchange.”); Br. for Republic of Venez. as Amicus Curiae at 18, *Petróleos de Venezuela S.A. v. MUFG Union Bank*, No. 20-3858 (2d. Cir. Mar. 22, 2021), Dkt. 146 [hereinafter “Second Circuit Amicus Brief”]; *see also* Br. for Republic of Venez. as Amicus Curiae at 2, *PDVSA, et al. v. MUFG Union Bank, et. al.*, CTQ-2022-00003 (N.Y. Nov. 22, 2023) [hereinafter “NYCOA Amicus Brief”].

⁷¹ Vecchio Letter, *supra* note 86, at 6–7, 11; Second Circuit Amicus Brief, *supra* note 86, at 15–16; NYCOA Amicus Brief, *supra* note 86, at 2, 8, 13.

⁷² Second Circuit Amicus Brief, *supra* note 86, at 13; Jan. 26, 2022, Oral Argument, Second Circuit Appeal, at 1:01:35–1:27:40, <https://ww3.ca2.uscourts.gov/decisions/isysquery/792a08d6-c17b-43d9-b5be-8e4dca682e61/561-570/list/> [hereinafter “Second Circuit Oral Argument”]; NYCOA Amicus Brief, *supra* note 86, at 2.

⁷³ Vecchio Letter, *supra* note 70, at 8; Second Circuit Amicus Brief, *supra* note 70, at 6–7; NYCOA Amicus Brief, *supra* note 70, at 13.

existence.⁷⁴

44. The Republic has explained why issuance of the 2020 Notes qualified as a national public interest contract requiring legislative approval, in particular, that the Exchange falls within the definition of “national public interest contract.”⁷⁵

45. The Republic has explained to this Court that “PDVSA is not only a state-owned enterprise,” it was also explicitly “created to fulfill a constitutional role of public interest” as set forth in several specific articles of the Venezuelan Constitution.⁷⁶

46. The Republic has explained to this Court that the Exchange Offer was the “first time that PDVSA purported to pledge strategic assets as collateral for a debt transaction, without requesting the prior authorization of the National Assembly.”⁷⁷

47. The Republic has explained that the National Assembly’s May 26, 2016 Resolution (the “May 2016 Resolution”) stating that “any national interest contract entered with foreign companies must be previously authorized by the National Assembly” was passed in direct response to a Maduro regime decree purporting to unilaterally claim the authority to enter national public interest contracts with foreign companies without legislative approval.⁷⁸

48. The Republic has explained to this Court and the Second Circuit that the National Assembly’s invocation of Article 187(9) in the September 27, 2016 Resolution (the “September 2016 Resolution”) and “the categorical rejection of the Pledge” demonstrate that the Assembly

⁷⁴ Vecchio Letter, *supra* note 70, at 2; Second Circuit Amicus Brief, *supra* note 70, at 13, 26–28; NYCOA Amicus Brief, *supra* note 70, at 8.

⁷⁵ See Vecchio Letter, *supra* note 70, at 7; Second Circuit Amicus Brief, *supra* note 70, at 16; NYCOA Amicus Brief, *supra* note 70, at 2; *see also* Second Circuit Oral Argument, *supra* note 88.

⁷⁶ Vecchio Letter, *supra* note 70, at 3.

⁷⁷ Vecchio Letter, *supra* note 70, at 4.

⁷⁸ Vecchio Letter, *supra* note 70, at 4; Second Circuit Amicus Brief, *supra* note 70, at 30; *see also* Second Circuit Amicus Brief, *supra* note 70, at 11.

“refused” the constitutionally required approval for the transaction.⁷⁹

49. Before the Second Circuit, the Republic asserted that “the National Assembly in the September 2016 Resolution confirmed that it was refusing to authorize the Exchange Offer,” and was making “an affirmative choice to withhold the constitutionally required approval.”⁸⁰

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Respectfully submitted,

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⁷⁹ Vecchio Letter, *supra* note 70, at 6; *see* Second Circuit Amicus Brief, *supra* note 70, at 32.

⁸⁰ Second Circuit Amicus Brief, *supra* note 70, at 31.

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